

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANN MARIE ROSE BAKER, M.D.,	§	
PLAINTIFF,	§	
	§	
v.	§	CIVIL ACTION NO. 4:08-CV-1908
	§	
UNIVERSITY OF TEXAS HEALTH	§	
SCIENCE CENTER - HOUSTON AND	§	
THE UNIVERSITY OF TEXAS SYSTEM	§	
MEDICAL FOUNDATION,	§	
DEFENDANTS	§	JURY TRIAL DEMANDED

DEFENDANTS' MOTION TO COMPEL AND TO EXTEND DEADLINES

TO THE HONORABLE JUDGE:

COMES NOW Defendant, University of Texas Health Science Center- Houston (UTHSC-H) and University of Texas System Medical Foundation ("Foundation") and would respectfully move the court as follows:

I.

Defendants have been sued under the American with Disabilities Act. Defendant, University of Texas Health Science Center- Houston is a State agency involved in training medical professionals. Defendant, University of Texas Health Science Center is a non-profit corporation which handles certain administrative duties. At all pertinent times herein, the Plaintiff was a physician receiving post graduate training, a residency in the field of pediatrics.

II.

The Defendants had a good bit of trouble and delay in obtaining discovery from Plaintiff. Defendants sent paper discovery to Plaintiff. Despite repeated requests for responses to those

discovery requests, the Plaintiff wholly failed to respond. It took a Motion to Compel from Defendants to obtain responses from Plaintiffs.

III.

Then, there were repeated attempts by Defendants to obtain a deposition date for Plaintiff. Again, there was no response.

Finally, Defendants simply sent a notice to depose to Plaintiff. This in turn, created a response by Plaintiff, who by agreement, gave Defendants a date certain, for her deposition, that is, September 17, 2009. After reaching an agreement with Plaintiff on the date, the deposition was re-noticed for September 17, 2009. Subsequently, a day or two before the deposition, counsel for Plaintiff called the undersigned attorney and left a message cancelling the deposition of plaintiff. Defendants traveled to Galveston anyway and took a Certificate of Non-Appearance.

IV.

No depositions have been taken by either party. Nor has mediation been attempted. Further, a senior attorney in this division of the Attorney Generals' office was hospitalized for heart problems last week and, regretfully, died this Monday, the 21st. The undersigned attorney, along with others, have been given his caseload, some of which require immediate attention.

V.

The court entered a scheduling order providing for a dispositive motion deadline, discovery deadline and trial date. Because of the delay in discovery, the Defendants move this court for an order compelling Plaintiff to appear for her deposition, along with a revised scheduling order extending these deadlines for discovery, dispositive motions and a new trial date.

WHEREFORE, premises considered, Defendants pray that the court order the Plaintiff to appear for her deposition by a date certain, extend the discovery deadline, extend the dispositive

motions deadline and the trial date be continued until a later date. Defendants also ask for all other relief, in law or equity, to which they may be entitled.

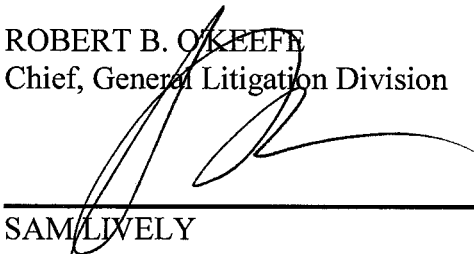
Respectfully submitted,

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

Defendant's counsel has attempted to confer with opposing counsel by phone and e-mail, to no avail, about these matters.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and forgoing document has been sent via certified mail, return receipt requested, on September 23, 2009, to the following individual:

Anthony P. Griffin
A Griffin Lawyers
1115 Moody
Galveston, TX 77550



SAM LIVELY
Assistant Attorney General